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OCTOBER TERM, 1966

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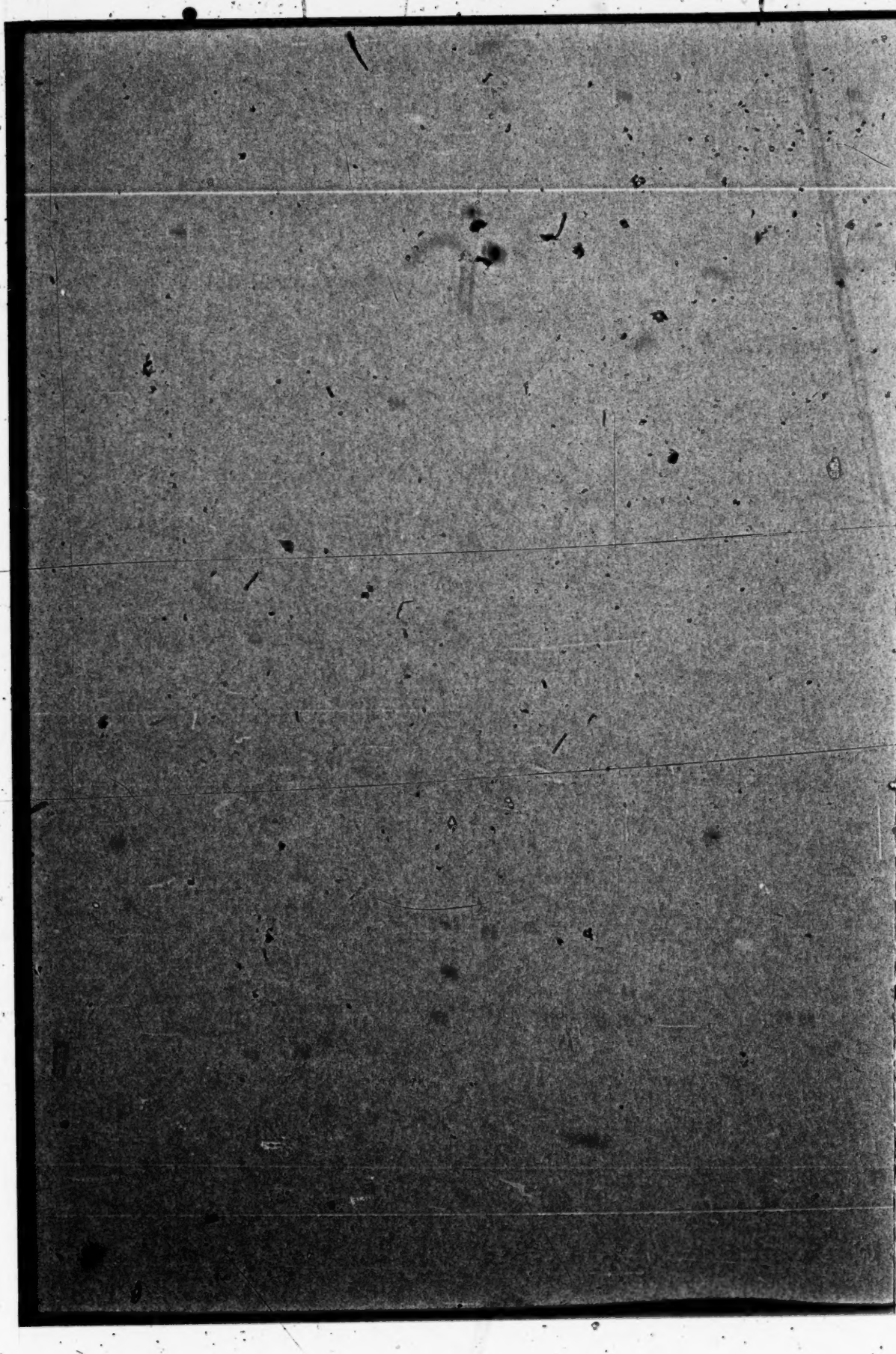
MINNIE E. NASH, PETITIONER,

vs.

FLORIDA INDUSTRIAL COMMISSION, ET AL.

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

PETITION FOR CERTIORARI FILED FEBRUARY 6, 1967
CERTIORARI GRANTED APRIL 10, 1967



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 1032

MINNIE E. NASH, PETITIONER,

vs.

FLORIDA INDUSTRIAL COMMISSION, ET AL.

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

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RECORD PRESS, PRINTERS, NEW YORK, N. Y., MAY 26, 1967

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1. MINNIE ELLEN NASH
My name: (First) (Middle) (Last)

2. 3361 N.W. 67
My address: (Street)

MIAMI FLA
(City) (State)

3. My Age: 57 Telephone No.

4. Stanley Bldg Spec.
(The name of My Last Employer)

1890 N.E. 146
(Street Address)

North FLA
(City) (State)

5.
(Place of work if different from above)

A. SS# 409-24-6136

B. LO # 14

C. Effective Date 5-16-5

D. Report Day _____ M F W C

E. New ☐ Additional ☒

F. Partial: (New) ☐ w/e _____ Earnings _____

G. Usual Occupation Saw Grinder

H. Other Occupation Helper

Interviewer

Date Filed 5-17-5

6. I was employed from 4-65 (Mo. Day Yr.) to 5-14-65 (Mo. Day Yr.) I left or lost this job because: L/W

7. I have earned $_____ GROSS since 12:01 A.M. last Sunday.

8. I received wages in lieu of notice: No ☒ Yes ☐.
Amount $_____, from _____ to _____.

9. I have worked in Federal Service some time during the last 18 months. No ☒ Yes ☐.

10. I have served in the Armed Forces during the past 18 months. No ☒ Yes ☐.

11. I am unemployed, or partially unemployed, able and available for work, and I register for work. Yes ☒ No ☐.

12. I hereby claim benefits under the Florida Unemployment Compensation Law.
I am not seeking unemployment benefits under any other State or Federal System.
I declare the above statements of fact to be true and correct.

My Signature Minnie E. Nash Date 5-17-5

Remarks:

CLAIM FOR BENEFITS

Florida Industrial Commission, Unemployment Compensation Division, Tallahassee, Florida.

Fla. UCB-3 (11-63)

[fol. 1] ADDITIONAL CLAIM—Filed May 17, 1965

1

1. MINNIE Ellen Nash
My name: (First) (Middle) (Last)

2. 3361 N.W. 67
My address: (Street)

Miami Fla.
(City) (State)

3. My Age: 53 Telephone No. 691-6719.

4. _____
(The name of My Last Employer)

(Street Address)

(City) (State)

5. _____
(Place of work if different from above)

A. SS# 409-24-6136

B. LO # 14-11

C. Effective Date 7-25-5

D. Report Day _____ M ~~T W~~ C

E. New ☐ Additional ☒

F. Partial: (New) ☐ w/e _____ Earnings _____

G. Usual Occupation Saw Op.

H. Other Occupation C

Interviewer _____

Date Filed 7-29-5

6. I was employed from _____ (Mo. Day Yr.) to _____ (Mo. Day Yr.) I left or lost this job because: _____

7. I have earned $_____ GROSS since 12:01 A.M. last Sunday.

8. I received wages in lieu of notice: No ☒ Yes ☐
Amount $_____ from _____ to _____.

9. I have worked in Federal Service some time during the last 18 months. No ☒ Yes ☐

10. I have served in the Armed Forces during the past 18 months. No ☐ Yes ☒

11. I am unemployed, or partially unemployed, able and available for work, and I register for work. Yes ☒ No ☐

12. I hereby claim benefits under the Florida Unemployment Compensation Law.
I am not seeking unemployment benefits under any other State or Federal System.
I declare the above statements of fact to be true and correct.

My Signature Minnie E Nash Date 7-29-5

Remarks: Out of Town Returned 7-22-5

CLAIM FOR BENEFITS

Florida Industrial Commission, Unemployment Compensation Division, Tallahassee, Florida.

[fol. 2]

ADDITIONAL CLAIM—Filed July 29, 1965

2

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION DIVISION
TALLAHASSEE, FLORIDA 32304

TO: Minnie E. Nash
3361 Northwest 67th
Miami, Florida

Date Mailed November 15, 1965

Social Security No. 409-24-6136

You have been DISQUALIFIED under Section 443.06 (4) of the Florida Unemployment Compensation Law which provides:

> An individual shall be disqualified for benefits for any week with respect to which the Commission finds that his total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment or other premises at which he is or was last employed...

Reason: You are disqualified beginning January 31, 1965, and for the duration of your unemployment which is due to the labor dispute at the factory or other premises of The Stanley Works.

You are entitled to file a request for reconsideration or an appeal within ten days from the date of this notice. The last date for filing such a request or appeal is November 25, 1965. If you do file a request for reconsideration or an appeal, you should do so through your local office, if possible, and should continue to report (when unemployed) until a decision is rendered.

Sincerely,

Thurman D. Burnett

Thurman D. Burnett
Chief of Benefits
JAW/jvb
CC: Local Office 14-0-13

Copy to Employer:

Stanley Building Specialties (020817)
1890 Northeast 146th Street
North Miami, Florida

Fla. UCB-45-3
(4-62)

[fol. 3] REDETERMINATION—November 15, 1965

FORM FLA.-UCA-1 (REV. 3-57)

DO NOT WRITE IN THIS COLUMN

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION DIVISION
Tallahassee, Florida

NOTICE OF APPEAL.

Type Claim UC S.S.No. 409-24-6136

Claimant Minnie E Dodd

Address 3361 NW 67 St

City Miami State Fla

Employer Stanley Works

Address 1890 NE 146 St

City No Miami State Fla

Date Mailed 11-15-5 Delivered in Person

Appeal Filed on 11-20-5

at Miami IV-013
(Local Office) (Itinerant)

I appeal decision of ☒ Claims Examiner:

☐ Appeals Referee for the following reasons

See attached

Signed by
(Person Appealing)

Signed by
(Local Office Representative) (Title)

ORIGINAL – APPEAL TRIBUNAL, TALLAHASSEE

Docket No. 11711 UC

PROGRESS REPORT	BY	DATE
Docketed		
Set up		
Hearing Set.		
Notices Mailed		
Hearing Held		
N.P. Mailed		
Second Hearing Set		
Notices Mailed		
Second Hearing Held		
Decision Dictated		
Decision Typed		
Verified		
Decision Mailed		
Docket Closed		

DATE	HOUR	PLACE	TOWN

ISSUE	DATE	NOTIFY
		Clt. N / Emp. N L

Field Deputy

Interviewer

CLAIMANT'S APPEAL FROM REDETERMINATION—
Filed November 20, 1965

[fol. 4]

NOV 29 1965

NOV 22 1965

MIAMI
FLORIDA CLAIMS

MIAMI
FLORIDA CLAIMS

11. 20. 65
3361 N. W. 67 St
Miami Fla.
33147

State Employment Service
Claims Dept.

Dear Sirs:

Rm 11-23-65

PLEASE WRITE YOUR SOCIAL SECURITY NUMBER BELOW AND RETURN TO US

409 24 6136

I recived a letter from Fla Industrial Commission. Stating I had been disqualified for unemployment Compensation under Section 443-06 labor dispute I was Called back to Work 4. 14-65 Was laid off 5-16-65. and of 10-5-65 I was Called back to Stanley Works. and im Working now. at Stanley Works. I want to (appeal) Will you please let me know What to do about this, Will this letter do? or do I half to come down there? I will be off from Work 25-26-of Nept Week. Can come down on Friday 11-26-65 let me know. by return Mail

Very Best

Minnie E Nash.

[fol. 5] ATTACHMENT TO CLAIMANT'S APPEAL

1. MINNE ELLEN Nash
My name: (First) (Middle) (Last)

2. 3364 Yuma St.
My address: (Street)
Miami Fla
(City) (State)

3. My Age: 53 Telephone No. 691-6719

4. Stanley Bldg. Spec.
(The name of My Last Employer)
1890 N.E. 146 St
(Street Address)
North Miami
(City) (State)

5. _____
(Place of work if different from above)

A. SS# 409-24-6136

B. LO # 14-0-13

C. Effective Date 12-20-65 12/19/65

D. Report Day _____ M/F W/C

E. New ☑ Additional ☐

F. Partial: (New) ☐ w/e _____ Earnings _____

G. Usual Occupation Jetty Man.

H. Other Occupation _____

Interviewer [signature] 12/20/65
Date Filed

6. I was employed from 10/15/65 to 12/17/65 I left or lost this job because: PLANT Closed
(Mo. Day Yr.) (Mo. Day Yr.)
FOR 2 Weeks. Temp. L/O

7. I have earned $ 0 since 12:01 A.M. last Sunday.
GROSS

8. I received wages in lieu of notice: No ☑ Yes ☐
Amount $ _____, from _____ to _____.

9. I have worked in Federal Service some time during the last 18 months. No ☑ Yes ☐

10. I have served in the Armed Forces during the past 18 months. No ☑ Yes ☐

11. I am unemployed, or partially unemployed, able and available for work, and I register for work. Yes ☑ No ☐

12. I hereby claim benefits under the Florida Unemployment Compensation Law. I am not seeking unemployment benefits under any other State or Federal System. I declare the above statements of fact to be true and correct.

My Signature Minnie Ellen Nash Date 12-20-65

Remarks: _____

CLAIM FOR BENEFITS

Florida Industrial Commission, Unemployment Compensation Division, Tallahassee, Florida.

Fla. UCB-3 (11-63)

[fol. 6] NEW CLAIM—Filed December 20, 1965

Florida Industrial Commission—Unemployment Compensation Division

14-0-13 — Clarence Ward — 409-24-6136

L. O. No. — Claimant's Name — Social Security Number

Issue and Cause: Stanley Dispute — Guide Card

I never was on strike in Jan 65 during dispute at Stanley Building Works. I was rehired when dispute terminated, then worked a few weeks, was laid off again, rehired in Oct and worked until 12/17/65 and I was laid off for Lack of work due to plant closing for 2 weeks, will receive clothing pay for 12/65 + 1/66.

To my knowledge I did not file any Charges nor did the union file any for me after being recalled the Apr. 65.

Clarence E. Ward.

Claimant's Signature

LOCAL OFFICE COMMENTS:

We have all 65 weeks - disqualifying Re Stanley Brothers Dispute

FOR C. O. USE

Claims Interviewer — Date 12/20/65

Fla. UCB-64 (3-58)

[fol. 7]

FACT FINDING REPORT—December 20, 1965

7

Docket No. 65-4494-U

FLORIDA INDUSTRIAL COMMISSION

Form Fla. UCA-2 (Rev. 7-65)

UNEMPLOYMENT COMPENSATION APPEAL TRIBUNAL

TALLAHASSEE 32304

NOTICE OF HEARING BEFORE APPEALS REFEREE

Claimant

Minnie E. Nash
3361 N.W. 67 Street
Miami, Florida

S. S. No. 409-24-6136

YOU ARE HEREBY NOTIFIED TO APPEAR

on December 22, 1965 (Date) 9:00 a.m. (Time)

at State Office Building
1350 N.W. 12th Ave., Room 450
Miami, Florida

Copies Mailed To:

- [x] Claimant:
- [x] Employer:
- [x] F.S.E.S.-Miami(14-0-13)
- [x] United Steel Workers Union
- [x] Attorney for employer
- [x] L. Liebman, Field Deputy
- [x] Field Department

on December 14, 1965

Employer

Stanley Building Specialties
1890 N.E. 146 Street
North Miami, Florida

and:

The Stanley Works
Attn: W.J. Buratti
195 Lake St., New London, Conn. 06052

Before James R. Parks an Appeals Referee, for a hearing on the appeal from the determination made by a Claims Examiner for the Unemployment Compensation Division of the Florida Industrial Commission.

The issue involved in this appeal appears on the reverse of this notice as number 12, 17, 4

In addition to the above cited determination, the hearing will include all questions affecting the claimant's right to benefits up to the time of the hearing. The Appeals Referee will determine, if applicable, whether benefit payments to claimant shall be charged to the employment record of the employer.

James R. Parks
(Appeals Referee)

INFORMATION AND INSTRUCTIONS TO THE PARTIES

This hearing is being held to give each of the parties an opportunity to present evidence and testimony in support of its side of the case. The proceedings at the hearing will be mechanically recorded. The Referee will consider the recorded testimony and evidence contained in the Commission's records when deciding the appeal.

APPEARANCES: Each of the parties should be prepared to present evidence on the issues at this hearing. If either, or both of the parties do not appear at the hearing, the appeal will be decided on the evidence available to the Referee.

WITNESSES: If you have witnesses whom you wish to have testify at the hearing, you must notify them and arrange for them to be present. You should bring to the hearing only those individuals who have personal knowledge of the facts you intend to establish. If a witness refuses to appear, notify the Referee at the time of the hearing, and if he deems the testimony of the witness essential, he will issue subpoena to compel his appearance.

POSTPONEMENT: The hearing will be postponed only for good cause and then only when you have notified the Referee prior to the time for the hearing, giving reason for the request for postponement.

LAWYERS: It is not necessary for you to have a lawyer to represent you at the hearing. You may, however, be represented by a lawyer if you desire.

WITHDRAWAL: If you wish to withdraw your appeal, do so in writing.

[fol. 8] NOTICE OF HEARING BEFORE APPEALS REFEREE

8

ISSUES INVOLVED

1. **UNEMPLOYMENT:** Whether claimant was totally or partially unemployed, as provided in Section 443.03(12)(a), Florida Statutes, 1963

2. **MADE CLAIM:** Whether claimant made a claim for benefits with respect to his week of unemployment in accordance with such regulations as the Commission may prescribe, as provided in Section 443.05(1), Florida Statutes, 1963.

3. **REGISTRATION AND REPORTING:** Whether claimant has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the Commission may prescribe, as provided in Section 443.05(2), Florida Statutes, 1963.

4. **ABLE AND AVAILABLE FOR WORK:** Whether claimant has been able to work and available for work, as provided in Section 443.05(3), Florida Statutes, 1963.

5. **WAGE CREDITS:** Whether claimant has been paid wages for insured work equal to twenty times his average weekly wages during his base period; provided that no unemployed individual shall be eligible to receive benefits if his average weekly wage is less than twenty dollars ($20.00), as provided in Section 443.05(5), Florida Statutes, 1963.

6. **VOLUNTARY LEAVING:** Whether claimant voluntarily left his employment without good cause attributable to his employer, as provided in Section 443.06(1), Florida Statutes, 1963, as amended.

7. **DISCHARGED FOR MISCONDUCT:** Whether claimant was discharged for misconduct connected with his work, as provided in Section 443.06(1), Florida Statutes, 1963.

8. **FAILURE TO APPLY:** Whether claimant failed without good cause to apply for available suitable work when so directed by the Employment Office or the Commission, as provided in Section 443.06(2), Florida Statutes, 1963, as amended.

9. **FAILURE TO ACCEPT:** Whether claimant failed without good cause to accept available suitable work when offered to him by Employment Office, Commission, or employing unit, as provided in Section 443.06(2), Florida Statutes, 1963, as amended.

10. **WAGES IN LIEU OF NOTICE:** Whether claimant was paid wages in lieu of notice, as provided in Section 443.06 (3)(a), Florida Statutes, 1963.

11. **WORKMEN'S COMPENSATION BENEFITS:** Whether claimant was paid compensation for temporary partial disability, temporary total disability or permanent total disability under the Workmen's Compensation Law of any state or under a similar law of the United States, as provided in Section 443.06(3)(b), Florida Statutes, 1963, as amended.

12. **LABOR DISPUTE:** Whether claimant's total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment, or other premises at which he is or was last employed, as provided in Section 443.06(4)(a)(b), Florida Statutes, 1963.

13. **BENEFITS UNDER ANOTHER STATE LAW:** Whether claimant has received or is seeking unemployment benefits under an unemployment compensation law of another state or the United States, as provided in Section 443.06(5), Florida Statutes, 1963, as amended.

14. **FRAUD:** Whether claimant made any false or fraudulent representation, knowing it to be false, for the purpose of obtaining benefits contrary to the provisions of this Chapter, as provided in Section 443.06(6), Florida Statutes, 1963.

15. **TIMELY APPEAL:** Whether an appeal was filed by one of the parties entitled to notice of the examiner's determination within ten days after the mailing of such notice to the parties' last-known addresses, or in the absence of such mailing, within ten days after the delivery of such notice, as provided in Section 443.07(3)(a), Florida Statutes, 1963.

16. **WAIVER OF OVERPAYMENT:** Whether claimant is entitled to waiver of recovery of the sum he received as benefits to which he was not entitled, as provided in Section 443.07(6)(b)(c), Florida Statutes, 1963.

17. **CHARGES TO EMPLOYER'S EMPLOYMENT RECORD:** Whether the benefit payments made to claimant shall be charged to the employment record of employer (–), as provided in Section 443.08(3)(a), Florida Statutes, 1963.

18. **RETIREMENT PENSION OR ANNUITY:** Whether claimant has received, or is eligible to receive, from a base period employing unit, income from a retirement, pension or annuity program, as provided in Section 443.06(8), Florida Statutes, 1963, as amended.

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[fol. 9]

[fol. 10]

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION APPEAL TRIBUNAL
TALLAHASSEE, FLORIDA

In the Matter of:

Appeals Docket No. 65-4494 U
Minnie E. Nash
3361 N. W. 67th St.
Miami, Florida
S.S. #409-24-6136

Employer: Stanley
Building Specialties
1890 N. E. 146th St.
North Miami, Florida

TRANSCRIPT OF TESTIMONY—December 22, 1965

This hearing is being held before Appeals Referee James R. Parks in the matter of Appeals Docket No. 65-4494 U. Claimant's name is Minnie E. Nash, 3361 N. W. 67th St., Miami, Florida, Social Security No. 409-24-6136. The employer is Stanley Building Specialties, 1890 N. E. 146th St., North Miami, Florida. Hearing is being held at the Florida State Office Building in Miami, Florida, on December 22, 1965. The claimant is present and will testify. Present on behalf of the employer is Mrs. DeRosa, Employer's personnel director and plant nurse. Also present to testify is Mr. Liebman, a Field Deputy in the Miami office of the Commission. The claimant is represented by counsel, Mr. Richard Horn. The employer is also represented by counsel, Mr. Allen. Both of these gentlemen live in Dade County.

Now, it is necessary that your testimony be taken under oath, so Mrs. Nash, Mrs. DeRosa and Mr. Liebman, if you

will raise your right hands and be sworn in, please? Do you and each of you solemnly swear that the testimony which you are about to give in this cause will be the truth, the whole truth and nothing but the truth, so help you God? For the record, all parties answered in the affirmative. Now, Mr. Horn, Mr. Allen and myself have agreed upon a stipulation to be entered into in this matter. This is also acceptable to claimant and Mr. Allen will recite the stipulation. Now, Mr. Allen, if you will, please.

Mr. Allen: It is stipulated at Miami, Florida, December 22nd, 1965. It is hereby stipulated by and between the United Steel Workers of America, Local No. 5571, AFL-CIO, and Stanley Building Specialties, 1890 N. E. 146th Street, Miami, Florida, hereafter referred to as the Employer, and the Claimant herein, that Claimant had notice of the hearing to be held on December 22, 1965, at 9 A. M. at Room 450, State Office Building in Miami, Florida, re- [fol. 11] garding the appeal of said claimant for unemployment compensation benefits; that claimant became employed by Employer prior to January 30, 1965; that subsequent to becoming employed by the Employer but before the last mentioned date, claimant became a member of the Union. Claimant herein is represented by the Union with respect to representation by the Union for the worker with the Employer; that the Union is or was elected bargaining agent for the Claimant herein and all other employees in an appropriate unit at the Employer's operation, and that the Union has or has had a collective bargaining agreement with the Employer; that the last contract entered into between the parties became effective February 2, 1963, and expired January 30, 1965; that Claimant herein was an employee of Employer at Employer's plant located at 1890 N. E. 146th St., Miami, Florida; that prior to January 30, 1965, the Union and the Employer entered into negotiations on a new collective bargaining agreement; that impasse on such negotiations was reached January 30, 1965; that labor dispute commenced January 31, 1965, at the premises of the

Employer at 1890 N. E. 146th St., Miami, Florida, where Claimant was employed between the Employer and employees; that such dispute concerned terms and/or conditions of continued employment with the Employer for employees; that on January 30, 1965, Union members held an election and voted to strike Employer; that at 12:01 A. M. on January 31, 1965, a picket line was established at the premises of the Employer at which Claimant rendered services; that Claimant regularly performed active picket duty at the premises at which she was employed and withheld services from the Employer; that all workers of the Employer did not picket and refuse to work, therefore after January 31, 1965 the Employer continued to operate its business; that on March 30, 1965, a Union representative contacted the Employer's plant manager and offered to return the striking workers unconditionally to their jobs; that on April 15, 1965 an employer representative informed the Union staff representative that the Employer would take some of its striking workers back but not others; that on April 5, 1965 the picket line was removed from the Employer's premises; that on April 6, 1965 the employer began processing those striking workers who were being taken back to work to their jobs; that the claimant involved in this hearing was taken back to work on or about April 6, 1965; (discussion in background) that claimant herein was returned to work by Employer unconditionally; that after the picket line was removed from the Employer's premises the Employer refused to permit a group of approximately 50 striking employees from returning to their work; that these employees, through the striking Union, on April 6, 1965, filed unfair labor practice charges with the National Labor Relations Board against the Employer, seeking among other things, reinstatement to their former jobs and back pay for the wages lost during the time that they had lost work because of the Employer's refusal to [fol. 12] permit them to return to work on or after April 6, 1965; that these unfair labor practice charges are unre-

solved and pending before the National Labor Relations Board as of December 22, 1965; that Claimant herein did not file an unfair labor practice charge against the Employer on April 6, 1965, and was not one of the persons listed on said unfair labor practice charge as having been discriminatorily discharged; that subsequent to being returned to work unconditionally on or about April 6, 1965, Claimant herein was separated from her work by Employer one or more times for "slow production"; Claimant was never told by any representative of the employer that her layoff was due to unfair labor practice charges filed with the National Labor Relations Board. After earlier having been separated from her job, Claimant herein, through the Union, with the Union acting with her knowledge and consent and in her behalf, filed or caused to be filed with the National Labor Relations Board unfair labor practice charges regarding her having been separated from her job prior to June 17, 1965; that Claimant's position before the National Labor Relations Board with regard to this layoff was that this layoff was motivated because of her Union activities and was therefore a violation of the National Labor Relations Act; that Employer's position before the National Labor Relations Board with regard to this layoff was that claimant herein was laid off purely for economic reasons; that the relief sought by claimant herein from the National Labor Relations Board with regard to the unfair labor practice charge, mentioned immediately above, included reinstatement to her former or an equivalent job and back pay for time lost because of the contended discriminatory layoff;

(End of Side 1, Record 1)

(Mr. Allen continuing) that the unfair labor practice charges filed by claimant herein on June 17, 1965, are presently unresolved and pending before the National Labor Relations Board as of December 22, 1965.

Referee: Now, could we have your assent to this, Mr. Horn?

Mr. Horn: Yes, I assent to that.

Referee: Well, thank you very much. Now, Mrs. Nash, for the record, please, will you state your name?

MINNIE E. NASH.

A. My name is Minnie Nash.

Q. You want to make sure that you speak into the microphone, about the way you talk into a telephone.

[fol. 13] A. I live at 3361 N. W. 67th St., Miami, Florida.

Q. Was your social security number correct as it appeared on your notice of hearing?

A. That's right, yes, it was.

Q. How old are you?

A. Fifty-three.

Q. Are you working?

A. No, well, not now, but I guess I'll go back to work.

Q. What kind of work do you usually do?

A. —operator.

Q. The file indicates that you first went to work with Stanley Building Specialties in 1962. Is that correct?

A. It might have been '61 or '62, I don't remember just when.

Q. And after you were hired you joined the Union, the United Steel Workers of America? Did you?

A. (Claimant answers before Referee finishes—answer not understandable.)

Q. Now, between January 1, 1965 and April 6, 1965, did you work at Stanley at all?

A. You mean after we went on strike?

Q. You went on strike, did you?

A. Yes, the last of January, 31st of January, I believe that is.

Q. There was a picket line at the plant at which you worked, did you do picket duty?

A. Yes, yes I did.

Q. Regularly?

A. No. Just sometimes I'd go up.

[fol. 14] A. Well, sometimes I'd go at 6 in the morning and stay 'til 12 and then maybe I'd skip two or three days before I'd go back.

Q. Well, during the time this picket line was in existence you did not go to work, is that it?

A. That's right, I didn't.

Q. Were you called to work by any employer representative, at the time the picket line was in existence?

A. No, I wasn't.

Q. Now, the picket line was taken down April 5, 1965, is that correct?

A. That's right.

Q. When after that date was it that you went back to work?

A. Well, I thought it was around the 14th, I believe that is when it was.

Q. Of April?

A. April.

Q. Now, after that—

A. And I was laid off the 16th of May.

Q. 16th?

A. 16th of May, I think.

Q. And on the 17th of June you had the Union or the Union did it for you, file charges with the National Labor Relations Board?

A. Yes, they did.

Q. With respect to that separation, the reasons for it?

A. Yes, sir.

Q. Now, you wanted reinstatement at work and back pay for time you had lost because of being separated from your job?

A. That's right.

[fol. 15] Q. Has there been any action taken with respect to these charges?

A. Well, I think so, I'm not sure.

Q. But they have not been resolved, they are still pending, is that right?

A. I think so.

Q. Do you recall that you worked some time—
A. October the 5th.
Q. You went back to work October 5th?
A. That's right.
Q. You were not ordered returned to work that date by—
A. I got a certified letter.
Q. From the employer? What I am getting at is, they weren't forced to put you back to work at that time by the National Labor Relations Board?
A. Oh, no, no.
Q. They called you back?
A. I don't reckon they were. I just got the letter.
Q. Now, after October 5 you were again separated from your job, is that right?
A. Well, the last Friday we were closing down for two weeks.
Q. Did you work up to last Friday?
A. Yes, I did, Friday noon, at 11 o'clock Friday.
Q. The 17th?
A. Yes.
Q. You were laid off this time?
A. No, it was a shutdown.
[fol. 16] Q. Anything further, Mrs. Nash, do you have any point that you would like to—
A. No, I think that is about it.
Q. Well, thank you very much.

Mrs. DeRosa, for the record please, will you state your name?

GENEVIEVE DEROSA.

A. Genevieve DeRosa.
Q. And you are personnel director for—
A. Stanley Building Specialties.
Q. Was there a shutdown of the plant December 17, 1965?
A. That's correct.

Q. Was there a specific reason for this?

A. Well, there is usually an annual shutdown while they do repair work.

Q. It is customary for the employer to shut the entire plant down over the Christmas and New Year's Holidays?

A. That's right.

Q. Was the plant shutdown for holiday vacation purposes the reason for Mrs. Nash's separation from her job? Her unemployment on December 17th?

A. Well, do I understand that she is taking a vacation, is that it?

Q. Well, she is not working because the plant is shutdown?

A. Shutdown, that is right, and not because she is taking a vacation.

Q. Perhaps it was a poor choice of words. Plant shutdown. Anything further now?

A. No, sir.

Q. Thank you very much.

[fol. 17] Q. Mr. Liebman, would you for the record, state your name?

LEON LIEBMAN.

A. Leon Liebman, Field Deputy Miami Office.

Q. You have some statement you would like to make with respect to this matter?

A. No, other than that I usually contact the employer and the Union representative to find out, if there is a case pending before the National Labor Relations Board, and I have been told that there has been no decision made at this time and that the case is still pending.

Q. Thank you very kindly. Mr. Horn, do you have any questions that you would like to direct to Mrs. Nash, Mrs. DeRosa or Mr. Liebman?

RICHARD HORN. [sic]

Mr. Horn: When did you apply for unemployment compensation the first time?

Mrs. Nash: In May, I don't remember what day.

Referee: Excuse me, please, make sure that you speak into the microphone.

Mrs. Nash: In May, I don't remember what day.

Mr. Horn: All right. Do you recall whether or not you began drawing, actually receiving checks prior to filing the charges with the National Labor Relations Board?

A. Well, I started drawing my pay just like I always did, I mean there wasn't nothing to keep me from drawing it. At the close of the third week I got my check and drawed it up until I went back to work.

Mr. Horn: Is it correct that you left work, that you were laid off on May 16?

Mrs. Nash: That's right.

Mr. Horn: And the charges were filed on June 17, so if you received it in three weeks, did you receive it before the charges were filed?

Mrs. Nash: I don't remember, I don't remember.

[fol. 18] Mr. Horn: Did you have any idea at the time that you were drawing the unemployment that there was any reason for your disqualification from drawing it?

A. No, sir.

Referee: Do you have questions for Mrs. DeRosa?

Mr. Horn: No.

Referee: All right. Mr. Allen, do you have any questions that you would like to direct to Mrs. Nash or Mrs. DeRosa?

Mr. Allen: Well, there is one thing I would like to direct to Mrs. DeRosa first. Mrs. Nash's unemployment at this time has nothing to do with anything except the fact that the plant is closed down, is that right?

Mrs. DeRosa: That's right.

Mr. Allen: And when the plant opens back up, as far as you know she will go back to work, is that correct?

Mrs. DeRosa: That's right.

Mr. Allen: That's all. That's all I have for her.

Mrs. Nash, at this time were the unfair labor practice charges resolved in your favor, the one that is pending, the June 17th charge, would you receive any money from that?

Mrs. Nash: I am receiving money, yes, I am.

Q. Back pay? (inaudible remark in background.)

Q. Were the unfair labor practice charges filed on April the 6th, that was the one with the list with a lot of people on it, with 50 people on it, you know the list I am talking about? You know it is where they offered to come back and the company said no, we're not going to take back 50 of you for various reasons, and then the union filed unfair labor practice charges,—?

A. Well, I—

Q. Did you know about those charges, did you know they were filed?

A. No. The only thing I know that I was called on the phone to come back to work and I took my lunch and went up there that day but Mr. Burger called us all in one at a time and interviewed up but we didn't work and he told us we could come back to work without a contract but the same job and the same rate of pay.

[fol. 19] Q. The charges were filed—I think you may get this from me because you may not know. The charge was filed April the 6th. You know what I am talking about? The unfair labor practice charge which was filed on April the 6th?

A. No, I don't know anything about it.

Q. When these people were not taken back on that day, no they didn't take back the group—

A. Well, I knew there was 40 or 50 that didn't go back.

Q. That's right, that didn't go back. Did you know that unfair labor practice charge, that they filed unfair labor practice charges about that?

A. No, I didn't.

Q. Were you a member of the union at that time?

A. Yes, I was.

Q. You were a member of the union at that time when they filed this on April the 6th?

A. Yes.

Q. All right. You understand, don't you, that under the labor law that the union represents you in all matters dealing with Stanley, is that correct?

A. I think so.

Q. To your knowledge they represent you?

A. Yes.

Q. Now let me ask you. During the period from April 30th, from April 6th to May 16th, in other words, that was the time you were brought back and layed off and that was the time before they brought you back again?

A. Well, I went up there but I don't think I went to work until the 14th of May.

Q. All right. You went to work on the 14th of May, is that right?

A. Yes, but—

[fol. 20] Q. I thought you were laid off on the 14th?

A. That's right. I went to work on the 14th of April I think. And was laid off the 16th of May.

Q. All right. Now, when did you come back to work for the company again?

A. The 5th of October.

Q. Fifth of October? During that time did you work elsewhere?

A. No, I didn't.

Q. Did you seek work elsewhere?

A. Yes, I did.

Q. Where?

A. Well, its over on—a place where I used to work, and take old metals, where I used to work, and I also sought work down here at the Employment Office.

Q. All right. And what did you find out in each instance?

A. Well, they told me they didn't need nobody, that they didn't have anything to do, both places that I had been working.

Q. Were those the only three places that you attempted to get work?

A. No, tried another place down below my house that's called—Industrials, that's place there and I couldn't get no work there, and a few places that I found in the paper. I don't remember the names of them and I called on the phone.

(End of side 2, Record 1) (Mr. Allen questioning Claimant)

Q. So you brought up a labor practice charge, had it filed in your behalf on or about June the 16th, that's correct, right?

A. I think it is.

Q. The 17th I think it is. But you didn't go back to work for the company until, when did you come back, September, is that correct?

A. No, October.

[fol. 21] Q. You came back in October. You didn't work for Stanley between the period of June 17th and October, whatever it was, right?

A. That's right.

Q. Now, during that period of time were you paid unemployment compensation?

A. Yes, I was.

Q. You were paid unemployment compensation? During that time was the unfair labor practice charge pending, the one that was filed on the 17th of June?

A. Well, I imagine it was.

Q. In other words, you had not heard from the Board one way or the other, is that right?

A. No, I hadn't, that's right.

Q. So, to the best of your knowledge that unfair labor practice charge was pending before and unresolved by the

National Labor Relations Board during the period in which you received unemployment compensation, is that correct?

A. That's right.

Q. That's all I have.

Referee: All right. Mrs. Nash, did the April 6th charge that was filed by the workers who weren't taken back to work relate to you in any way?

Mrs. Nash: Well, I don't know.

Q. In other words, you were taken back so that charge has nothing to do with you, is that correct?

Mrs. Nash: Well, I don't imagine it did.

Q. All right. Mr. Horn, do you have any argument that you—

Mr. Horn: Yes. We heard from the testimony of the claimant here that, in the stipulation of the facts cited, that [fol. 22] she went on strike which she admits to, that she was taken back to work by the company on April the 14th. She worked until May 16, 1965, which is no problem. All right, then, she was laid off by the company and the company gives as its reason throughout that she was laid off for economic reasons. She was taken back to work on October 5th and she drew unemployment compensation for the period from May 16, 1965 to October 5th, 1965. Now we contend that she filed for this unemployment compensation in May as she stated, in good faith. She received her checks prior to any charges being filed, prior to any possibility of what might be considered a labor dispute existing, and received her unemployment compensation in good faith throughout that period. Now, the company asserts here, as stated, that this layoff was due to economic reasons. She was told "slow production" was the reason for her layoff and I can't in any way see how the company then can contend that her layoff was, under the terms of the statute, "due to a labor dispute." Certainly no labor dis-

pute existed at the time she was laid off and no labor dispute existed up until the time as a result of her layoff that the unfair labor practices were charged against her. I am aware of some cases where the District Courts of Appeal have held that a labor dispute may continue until it is finally settled or terminated. However, an individual's unemployment due to the labor dispute can terminate at some point prior to the final—of the labor dispute. We contend that this is the situation here. Her unemployment due to the labor dispute was—occurred during the period of the strike and ended when she was taken back to work on April 14th and her layoff subsequent thereto couldn't in any sense be considered to be due to a labor dispute. The only labor dispute that occurred subsequent to that time and as a result of charges that she filed a month afterwards, and as a matter of fact, after she had already begun receiving unemployment compensation. So I don't believe that the Commission could hold that her unemployment was due to a labor dispute. And apparently the position that the employer is urging the Commission to take is to construe the statute so that any time any charges are pending before the National Labor Relations Board against the employer that any layoffs for whatever reason they might occur, are "due to" the labor dispute. Now this seems to me patently absurd and I don't believe that the Commission could place such a construction on the statute. And I don't believe the courts would place such a construction on the statute. As I stated before, the labor dispute may continue, but unemployment due to the labor dispute does not continue and it doesn't go on, unemployment due to the labor dispute doesn't go on until the labor dispute is finally settled and it didn't here. I would further say, primarily [fol. 23] for the record, that a finding by the Commission that this statute would be applied here to this claimant so as to deprive her of benefits, it would not only be an incorrect construction of the statute but it would also be an unconstitutional construction of the statute under the privileges and immunity clause of the 14th amendment and the

supremacy clause of the Constitution of the United States. It has been held in the case of Henry Quarles 158 U. S. 532, that the right to inform the United States authorities of violations of laws is a privilege and immunity of citizens of the United States which is protected by the Constitution of the United States and cannot be abridged by the State. This is the type of interest that grows out of the relationship between the citizens of the national government that is to be protected. Now here under the construction of the statute against the petitioner, she would be penalized for exercising her privilege to inform the United States Government that its laws are being violated by the employer in this case, and for the reason that she under stay would be depriving her of unemployment benefits to which she would unquestionably be otherwise entitled. The employer here stated the reasons for this unemployment are economic and so there wouldn't be any question that she would be entitled to unemployment compensation benefits but for the fact that she exercised right to inform the United States Government of violation of its laws. I don't believe that the language in the statute where it says "unemployment due to a labor dispute" and the context of the unemployment statute have been considered to have the meaning that the employer would seek to have placed upon it here in the light of the purpose of the Act, which is the guaranty of subsistence living to people who are unemployed for economic or other reasons unless one of the specific exclusions of the act is applicable. I don't believe the employer can contend that the labor dispute has the same meaning under this act as it has under the National Labor Relations Act, and also the Act. Each of these statutes was passed for a specific purpose and the purpose of this act must be considered to bar an interpretation such as the employer would seek to put upon it. Now, if this construction were to be taken the employer could break a union at any time simply by requiring its employees, the employees would file unfair labor practices

that this was the reason and they would be barred from obtaining unemployment compensation benefits because this was "due to a labor dispute." As long as it took to wear down the claimants the employer could continue filing themselves unfair labor practice charges and as long as those [fol. 24] charges were pending under this interpretation no one could collect unemployment benefits. Therefore, I don't believe the Commission could place this construction upon the statute and the claimant here should not be disqualified from any claim that she has subsequent to the date of her reinstatement to employment by the employer on April 6 or thereabouts.

Referee: Thank you very much. Mr. Allen?

Mr. Allen: Well, next, the employer would say that the charges filed on April 6th as well as any other charge filed by the Union, in fact does relate to the claimant here, inasmuch as she is a member of the Union, pays dues in the Union, and if acts as her agent in all matters regarding wages, hours, and working conditions. Therefore the mere fact that her name may not be listed as a person seeking a particular remedy does not necessitate or necessarily lead to the conclusion that she is in no wise involved in a labor dispute. No. 2, with regard to claimant's counsel's contention that there was no labor dispute after April 6th, firstly, it is clear that there can be a labor dispute even under the Florida law any time there is actually any question or dispute either that relates to wages, hours, working conditions, terms of employment, anything of this nature is considered and construed by the District Courts of Appeal in Florida to be a labor dispute. The position that the claimant takes would, in effect, say that unless there is a strike and a picket line there cannot be a labor dispute. Obviously, there are many ways that there can be a labor dispute without a picket line and striking. Case law will clearly establish this. Therefore, the company would respectfully submit that the labor dispute which initiated when the Union went out on strike has never ceased, it is continued, there has never been a contract signed. That was

the purpose for the strike, it was because there was a problem with regard to wages, hours and working conditions. An attempt was made to negotiate about this matter. They went out on strike when they reached an impasse and they still have not solved the basic problem for which they went out on strike. There is no contract between the Union and the Company at this time. But even if this labor dispute did terminate it is clear that when the claimant was in fact laid off, regardless of the reason for which she was laid off, that she in fact questioned the employer's right to lay her off. Therefore another labor dispute arises at that point. This obviously is a dispute concerning wages, hours, working conditions, employment, conditions of employment, etc. Therefore, again there is a labor dispute and her unemployment is directly due to the labor dispute that is in active progress, because it is in active progress. And in previous cases and at other times, the claimant's counsel has con- [fol. 25] tended that the unemployment is not due to a labor dispute, but that the dispute occurred and then the unemployment happened. Well, in any law suit it is clear that even though I, for example, may be injured today I may not file suit for a year, and as long as the statute of limitations has not passed by I can still file my suit, but when I go in for damages or I go in to prove up my claim I go back to the initial date that the event occurred. Therefore, any claim that she waited to file, waited six days to file an unfair labor practice, or she waited three weeks to file an unfair labor practice, has no relevance whatsoever. It is clear that as long as she filed the unfair labor practice charge within the six months statutory limitation period then in fact everything that she—on which she bases her claim is dated from the actual incident when she was laid off, denied reinstatement, discharged, or whatever the claim may be. Therefore, again I would assert, the company would assert, that another labor dispute actually arose with the employer laying off of the claimant herein and her non-acceptance of the reasons given by the employer for this. Now the counsel for the claimant talks in

terms of constitutionality, penalty to the employee, and so forth and so on. There is also another side to the picture, which is this, one, if an employee files an unfair labor practice charge and at the same time files unemployment compensation claims, and assume that these cover the same period of time, and she wins both of those cases, then, one, she is going to get reinstatement by the National Labor Relations Board, she is going to get full back pay from the employer as ordered by the National Labor Relations Board, and two, she is going to get unemployment compensation which the State will have to pay for and the employer will have to pay for. Therefore she is going to get a tremendous windfall inasmuch as unemployment compensation is not credited under the National Labor Relations Act against back pay, that is assigned to be paid by the National Labor Relations Board. For example, if the Board was to say, you owe X $100 in back pay and in the meantime she had received $50 in unemployment compensation and $50 awarded somewhere else, they would say, O. K. you can deduct the $50 that she earned working at another job but you cannot deduct the amount of money that she earned or that she received as unemployment compensation.

(End of Side 1, Record 2)

(Side 2, Record 2) (Mr. Allen continuing)

Therefore, you would say that she would get not only a windfall, she would get the windfall, the employer would be [fol. 26] penalized, by paying her twice in some amount; not the full amount but in some amount, and so would the State of Florida end up paying her. Therefore, in effect, she would—the effect of the statute is too true, to give some people who don't have money, some money, but if she gets money, why pay her twice? That would defeat the meaning of the statute. Further, the employer would contend that a person in such a situation should have to elect the remedy. They should have to choose to go to one tribunal or the other. Otherwise, quite to the contrary from

what the claimant's counsel says, that any that was fired would do these things automatically. If the law were to the effect that she could get both or get reinstatement, every time anybody was laid off they would automatically file unfair labor practice charges. They would automatically seek unemployment compensation. Why not try both of them, they have nothing to lose. But if they have to make up their minds, if they think they were discriminatorily discharged or laid off, then, and they are really sincere about it, they should go to the National Labor Relations Board and if they find it is true then they will get their remedy. If they don't then they should say, O. K., the unemployment was justified, therefore I should get my unemployment compensation and they would get it. That's the position the employer takes with respect to them. Further, the employer would respectfully submit that in this instance this claimant has been paid a considerable amount of money when actually she was not entitled to receive it inasmuch as she had an unfair labor practice charge pending regarding her employment, to which she has been paid for the period of some time in June to some time in October, and granted for the first two and a half weeks in June there was not unfair labor practice charge pending in her behalf, but on the 17th of June to the present time there has been an unfair labor practice charge pending and unresolved with the National Labor Relations Board. The employer would respectfully submit that these charges were incorrectly paid and that it would be highly prejudicial to the employer and to the employer's experience rating if he were charged for these amounts. Therefore the employer would respectfully request that his experience rating account be credited with any amount which was paid to this employee during this period of time. Now, with regard to this, the relationship of time, counsel for the claimant did not mention that and we discussed it earlier off the record. This party here was in fact recalled to work, laid off, recalled again and again laid off, the issue being whether or not inasmuch as she filed unfair labor practice

charges the first time she was laid off, do these unfair labor practice charges and the concurrent remedies that go with the unfair labor practice charges in the event she [fol. 27] were to win them, would these also apply to the second layoff where she has not in fact filed unfair labor practice charges with regard to the second layoff. Counsel for the employer respectfully submits that he is not aware of the precise state of the law at this time but the conclusion at this point is, my conclusion at this point is, that if for example the claimant were laid off, were called back to work June 1, were laid off June 2, called back June the 3rd, laid off again June the 4th, the National Labor Relations Board would probably find that the second layoff was discriminatory regardless of whether or not she filed a charge and therefore would charge the employer with back pay for that period and also order her reinstatement regardless of the fact that she had been taken back, and in each instance the case would be based on the motive for the second layoff. If the Board found that the second layoff was motivated by anti-union reasons then the Board would most probably O. K. the charge, for regardless of whether or not the time period asserted in the charge included the second layoff. So, therefore, conversely, if there were say a period of a year between the first layoff and the second layoff, the Board may well find or might well find that the second layoff was not discriminatory any way, that when the party came back after the first layoff that that terminated any liability with regard to the unfair labor practice charge pending during the first unfair labor practice charge and therefore that the second layoff was completely for cause and then there would be no dispute with regard to the second layoff. All this is background material for the employer's conclusion that regardless of the state of the law it is clear that the second layoff involved herein, in the second layoff involved herein there is a good chance that the employee may well receive some remuneration or that she may have an order of reinstatement entered in her behalf by the National Labor Relations Board. This

being the case, it is clear that the labor dispute could possibly be continued to include the second layoff regardless of whether or not she filed an unfair labor practice charge. This being the case, the employer would further submit that the labor dispute, that the unfair labor practice charge filed with regard to the first layoff does in fact include any subsequent layoff until the Board finally makes a determination as to whether or not the second layoff was discriminatory. If in fact the Board decides that it was, then obviously the remedy will cover both the layoffs. If it wasn't, then it would only cover one. But there is enough chance in each instance that it will cover both layoffs that it is clear that the labor dispute has not been resolved by the National Labor Relations Board until the issue is totally reviewed, until the initial charge is totally resolved and it is found that the second layoff has nothing to do with anti-union motives. That is all I have to say.

[fol. 28] Referee: Thank you very much. Mr. Horn?

Mr. Horn: I would like to rebut at two points that counsel made. First of all, this last point, that the second layoff might be considered discriminatory. Well, this seems to be to be an untenable, virtually an absurd contention. The employer's representative has testified here that every worker in the factory was laid off for Christmas holidays so I fail to see how any dire consequences could come of that. Secondly, as to his argument that this is a penalty for the employer that may be forced to put up certain sums twice, first of all it takes, this case right here shows, it takes at least a year and often more before these issues can be resolved before the National Labor Relations Board. And to require employees from the date that any dispute occurred until final settlement would virtually negate the unemployment compensation act's purpose of providing subsistence income for these people during interim periods when they are out of work, and the fact, I don't know whether counsel's statement that unemployment compensation is not deducted from Board awards is correct or not. I wouldn't doubt that it is not deducted. However, even

if it were it seems to me that this would fall within the concept of a collateral source just as if this woman's relatives gave her money to live on during this period should unemployment compensation be unavailable. That seems to be irrelevant not only to the Court's determination but conversely that should be irrelevant to the Commission's determination as to the applicability of the statute.

Referee: Thank you very much. There being no further testimony in this case, this hearing will now close. You will all be notified by mail regarding the outcome. Thank all of you very much for appearing.

[fol. 29]

NOTICE OF DECISION OF APPEALS REFEREE

(See opposite) ☞

FLORIDA INDUSTRIAL COMMISSION

UNEMPLOYMENT COMPENSATION APPEAL TRIBUNAL

Tallahassee, Florida 32304

Claimant:

Minnie E. Nash
3361 NW 67th Street
Miami, Florida

Social Security No. 409-24-6136

NOTICE OF DECISION OF APPEALS REFEREE

JW

Decision No. 65-4494-U

We enclose a copy of the decision of the Appeals Referee on this case.

This decision will become final unless within ten (10) days after the date it is mailed, you file an application for leave to appeal to the Board of Review.

If you have any question as to the effect of this decision or as to the procedure for appealing to the Board of Review, it is suggested that you consult the local office of the State Employment Service.

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JAN 21 1966
FLORIDA INDUSTRIAL COMMISSION
BOARD OF REVIEW

Employer: No. -020817

Stanley Building Specialties
1090 NE 146th Street
North Miami, Florida

James R. Parks
Appeals Referee
James R. Parks

Other copies mailed to:
FSES - Miami (14-0-13)
Benefit Department
United Steel Workers Union, Local 5571
Leon Liebman, Field Deputy
Field Department
Legal Department
Employer's attorney
Claimant's attorney

JAN 14 1966
Date of mailing this decision

JAN 24 1966
Last date for filing appeal to Board of Review

The Stanley Works
195 Lake Street
New Britain, Connecticut 06052

Attn: W. J. Buratti

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JAN 17 1966
BENEFIT DEPARTMENT
Unemployment Compensation Division

Form Fla. UCA-7 (Rev. 1-59)
190

[fol. 30]

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION APPEAL TRIBUNAL
TALLAHASSEE, FLORIDA

Unemployment Compensation Claim
Appeal from Determination of Claims Examiner
Docket No. 65-4494-U

In the Matter of:

Social Security Account No. 409-24-6136
(Claimant-Appellant),

Employer No. —020817

DECISION OF APPEALS REFEREE—January 14, 1966

After due notice to the parties, hearing was held at Miami, Florida, on December 22, 1965. The claimant and an employer representative appeared and testified. A field deputy of the Commission also appeared and testified. Both the claimant and the employer were represented by counsel.

Issues Involved: Whether claimant's total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment, or other premises at which she is or was last employed, as provided in Section 443.06(4)(a)(b); and whether the benefit payments made to claimant shall be charged to the employment record of employer (—020817), as provided in Section 443.08(3)(a), Florida Statutes, 1963.

History of Case: Claimant filed an initial claim for unemployment compensation benefits effective December 20, 1964, and filed additional claims effective May 16, 1965, and effective July 25, 1965, then filed another initial claim on December 20, 1965. On November 15, 1965, the Claims

Examiner made a determination disqualifying claimant for benefits for the period beginning January 31, 1965, because unemployed due to a labor dispute in active progress at the premises at which she is or was last employed. Claimant was notified of that determination by mail dated November 15, 1965, and appealed on November 20, 1965.

Findings of Fact: Claimant became employed with employer (—020817) in 1961 or 1962. Subsequent to undertaking this employment, appellant became a member of United Steel Workers of America, Local 5571, AFL-CIO. This organization was the collective bargaining agent for workers with employer (—020817). On February 2, 1963, the union and the employer entered into a collective bargaining agreement that was effective until January 30, 1965. Prior to January 30, 1965, the union and the employer negotiated with respect to a new collective bargaining agreement. Prior to January 30, 1965, impasse was reached in such negotiations. On January 30, 1965, union [fol. 31] members held an election and voted to strike the employer. This dispute concerned terms or conditions of continued employment with the employer for workers. At 12:01 a.m. on January 31, 1965, a picket line was established at the premises of employer (—020817) at which claimant was employed. Appellant and other workers of her grade or class withheld their services from the employer or performed active picket duty or both. All workers of the employer did not withhold their services when this labor controversy began and so the employer continued operations. On March 30, 1965, a union representative contacted the employer's plant manager and offered to return the striking workers unconditionally to their jobs. On April 5, 1965, an employer representative informed the union's staff representative that the employer would take some of the striking workers back but not others. On April 5, 1965, the picket line was removed from the employer's premises. On April 6, 1965, the employer began processing those striking workers who were being

taken back to work, back to their jobs. Appellant was not one of the striking workers the employer would not permit to return. She was returned to work unconditionally. The employer refused to permit approximately fifty workers to return to their jobs. On April 6, 1965, through the union, these workers filed charges with the National Labor Relations Board regarding their not being returned to work. The relief sought in these charges included the workers being returned to their jobs and paid back pay for time which they had lost from work. Appellant went back to work on April 14, 1965. She worked until May 16, 1965, and then was laid off by the employer for "slow production." On June 17, 1965, claimant filed charges with the National Labor Relations Board alleging that the employer had discriminated against her by separating her from her job. The relief appellant sought with these charges included being reinstated on her job and paid back pay for time which she had lost from work. On October 5, 1965, the employer, voluntarily, recalled claimant to work. After October 5, 1965, claimant worked until December 17, when the employer again separated her from her job. Claimant was separated from her job on December 17, 1965, because of a plant shutdown, customary with the employer, for the Christmas and New Year's holidays. Appellant will be recalled to work when the employer's plant resumes operations. As of the date of the hearing, December 22, 1965, the charges which claimant had filed with the National Labor Relations Board against the employer on June 17, 1965, were unresolved and pending, as were the charges filed on April 6, 1965, by those workers the employer would not return to their jobs.

Claimant's unemployment for the period beginning January 31, 1965, to April 14, 1965, was due to a labor dispute [fol. 32] in active progress at the premises at which she was last employed, and she is disqualified for benefits for such period. Claimant is eligible for benefits without disqualification for all periods, for which she claimed benefits, from May 16, 1965, to June 17, 1965. The employer's

experience rating account is chargeable with any benefits which might be paid in connection with this claim for the period beginning May 16, 1965, to June 17, 1965. Claimant's unemployment from June 17, 1965, to October 5, 1965, was due to a labor dispute in active progress at the premises at which she was last employed, and she is disqualified from receiving benefits for such period. Claimant is eligible for benefits without disqualification for all periods for which she claimed benefits for the period beginning December 17, 1965, and so long as her unemployment after such date is due to a plant shutdown. The employer's experience rating account is chargeable with any benefits which might be paid in connection with this claim for the period beginning December 17, 1965, and thereafter for any benefits paid claimant as a result of her unemployment being due to the employer's plant shutdown on December 17, 1965.

Reasons for Decision: The Florida Unemployment Compensation Law provides:

"443.06 Disqualification for benefits—An individual shall be disqualified for benefits:

"(4) For any week with respect to which the Commission finds that his total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment or other premises at which he is or was last employed; provided, that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

"(a) He is not participating in or financing, or directly interested in the labor dispute which is in active progress; provided, however, that the payment of regular union dues shall not be construed as financing a labor dispute within the meaning of this section; and

"(b) He does not belong to a grade or class of workers of which immediately before the commencement of the labor dispute there were members employed at the premises at which the labor dispute occurs any of

whom are participating in, or financing, or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, or are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection be deemed to be a separate factory, establishment or other premises."

[fol. 33] Here, it has been shown that claimant's unemployment from January 31, 1965, to April 14, 1965, was due to a labor dispute in active progress at the premises at which she was last employed. It has also been shown that she actively participated in such dispute by performing active picket duty or withholding her services from the employer, or both. In view of these factors, appellant is properly subject to disqualification for benefits under the labor dispute provisions of the Law for the period beginning January 31, 1965, to April 14, 1965.

The testimony presented in this instance shows that on June 17, 1965, appellant filed charges with the National Labor Relations Board against the employer because of her separation on May 16, 1965, seeking, among other things, reinstatement on her job and back pay for time which she had lost from work. It has further been shown that these charges were unresolved and pending when claimant was recalled to work by the employer, voluntarily, on October 5, 1965. These charges being filed and being unresolved and pending as of the date appellant returned to work constitute a labor dispute in active progress at the premises at which she was last employed between claimant and the employer. Consequently, here, it should be deemed that any unemployment appellant experienced during the period beginning June 17, 1965, to October 5, 1965, is due to a labor dispute in active progress at the premises at which she was last employed and she participated in such dispute. Therefore, it should be held that appellant is dis-

qualified for benefits for the period beginning June 17, 1965, to October 5, 1965.

As appellant was separated from her job on May 16, 1965, due to "slow production" and did not dispute such separation until June 17, 1965, it should be held that she is qualified for benefits for all periods for which she filed claims for the period beginning May 16, 1965, to June 17, 1965. Granted, there was a labor dispute in active progress at the employer's premises when claimant was separated from her job on May 16, 1965, (such dispute being the labor controversy manifested by the charges with the National Labor Relations Board filed on April 6, 1965, by those workers who were not returned to their jobs and those charges being unresolved and pending when claimant's employment was terminated on May 16, 1965). But appellant's becoming unemployed on May 16, 1965, was not due to this dispute.

Although the charges filed with the National Labor Relations Board on June 17, 1965, by claimant were unresolved and pending when she was separated from her job on December 17, 1965, since she was separated from her job on this occasion due to a plant shutdown and will be recalled to work when the plant begins operations after the [fol. 34] shutdown, it should not be deemed that her unemployment after December 17, 1965, and so long as her unemployment is due to the plant shutdown, is due a labor dispute in active progress.

Decision: The determination of the Claims Examiner is hereby modified so as to hold as follows: claimant is disqualified for benefits, because unemployed due to a labor dispute in active progress at the premises at which she is or was last employed, for the period beginning January 31, 1965, to April 14, 1965; claimant is eligible for benefits without disqualification for all periods, for which she claimed benefits, from May 14, 1965, to June 17, 1965; the experience rating account of the employer is chargeable with any benefits which might be paid in connection with

this claim for the period beginning May 14, 1965, to June 17, 1965; claimant's unemployment from June 17, 1965, to October 5, 1965, was due to a labor dispute in active progress at the premises at which she was last employed, and she is disqualified from receiving benefits for such period; claimant is eligible for benefits without disqualification, for all periods for which she claimed benefits, for the period beginning December 17, 1965, and so long as her unemployment after such date is due to plant shutdown; the employer's experience rating account is chargeable with any benefits which might be paid in connection with this claim for the period beginning December 17, 1965, and thereafter for any benefits paid claimant as a result of her unemployment due to the employer's plant being shut down as of December 17, 1965; and, as modified, the Claims Examiner's determination is affirmed.

James R. Parks, Appeals Referee.

Date Mailed Claimant
and Employer: Jan. 14, 1966.

[fol. 35]

CLAIMANT'S APPEAL TO BOARD OF REVIEW

(Letterhead of Rutledge and Milledge, Miami, Florida.)
[Stamp—Received Jan. 20, 1966—Florida Industrial Commission, Board of Review]

January 17, 1966

Florida Industrial Commission
Appeals Office
1350 N.W. 12th Avenue
Miami, Florida

Attention: Mr. Ruffo

Dear Mr. Ruffo:

Pursuant to our telephone conversation of January 17, 1966, this is to inform you of the application for leave

to appeal to the Board of Review of the Florida Industrial Commission under Florida Statute 443.07(4)(c) by Minnie E. Nash, from decision number 65-4494-U rendered on January 14, 1965, by Appeals Referee James R. Parks.

A Photocopy of the Notice of Decision of Appeals Referee is enclosed herewith, for your convenience.

Please advise whether any additional information is necessary for this application.

Sincerely,

Rutledge & Milledge, Richard L. Horn,

RLH/pm

Enclosure

[fol. 36]

CLAIMANT'S ADDITIONAL GROUNDS FOR APPEAL

(Letterhead of Rutledge and Milledge, Miami, Florida.)
[Stamp—Received Jan. 21, 1966—Florida Industrial Commission, Board of Review]

January 18, 1966

Florida Industrial Commission
Appeals Office
1350 N.W. 12th Avenue
Miami, Florida

Attention: Mr. Ruffo

Dear Mr. Ruffo:

Pursuant to our telephone conversation of Tuesday, January 18, 1966, the following grounds are to be included in the application for leave to appeal to the Board of Review of Mrs. Minnie Nash:

> The decisions rendered by the Claims Examiner and the Appeals Referee are based upon a construction

of Florida Statute section 443.06(4) which renders said statute unconstitutional as applied to appellant under the Privileges and Immunities Clause, Amendment 14, Section 1, United States Constitution, and the Supremacy Clause, Article 6, Clause 2, United States Constitution;

Said decisions are further defective for the reason that appellant's unemployment was not "due to a labor dispute in active progress" as required by Florida Statutes (1963), Section 443.06(4).

I would appreciate your sending me a copy of the final application form when it is sent to Tallahassee.

Sincerely,

Richard L. Horn.

RLH/pm

[fol. 37]

ACKNOWLEDGMENT OF CLAIMANT'S APPEAL

(Letterhead of Florida Industrial Commission, Unemployment Compensation Board of Review, Tallahassee, Florida)

January 24, 1966

Minnie E. Nash
3361 N. W. 67th Street
Miami, Florida

Re: Referee's Decision Docket No. 65-4494U

Claimant—Appellant
Name:
S.S. No.: 409-24-6136

Employer
Name: Stanley Building Specialties
and
The Stanley Works

Receipt is acknowledged of the appeal filed in the above case. Docket No. 66-38 has been assigned to this case. The recorded testimony taken at the hearing, together with the entire file, will be sent to the Board of Review.

The Board will consider the case upon the record. In some instances, the Board may deem it necessary to take additional testimony before making its decision. If so, a hearing will be scheduled and all interested parties will be notified seven days prior to the date of the hearing.

If any of the interested parties desire to submit a written brief as to their contentions, they may do so by addressing same to Board of Review, Florida Industrial Commission, Unemployment Compensation Division, Caldwell Building,

Tallahassee, Florida. All communications are to be identified by the docket number shown above.

Yours very truly,

Florida Unemployment Compensation
Board of Review

By: Lillie O. Hall, Secretary.

cc: FSES—Miami (14-0-13)

Claimant's Attorney
(Fla. BR-3A-Rev. 6/1/65)

Employer's Attorney
Union

[fol. 38]

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION BOARD OF REVIEW
TALLAHASSEE, FLORIDA 32304

Docket No. 66-38
S.S. No. 409-24-6136

In the Matter of:

Minnie E. Nash, Claimant
3361 N.W. 67 Street, Miami, Florida and
Stanley Building Specialties, Employer
1890 N.E. 146 Street, No. Miami, Florida

NOTICE OF REVIEW HEARING

The decision of the Appeals Referee in the above-styled matter is scheduled for review by the Board of Review on February 16, 1966 at 2:00 P.M. in the Conference Room,

Caldwell Building, located at Tallahassee, Florida, an appeal from such decision having been filed by the Claimant.

A decision by the Board of Review will be rendered upon the record, including the testimony presented at the hearing before the Appeals Referee. It will not be necessary for you to appear in person. However, you may submit a written brief or a statement in the form of a letter, setting forth your contentions and arguments, if you so desire. Any correspondence in reference to this review should be addressed to: *Mrs. Lillie O. Hall, Secretary, Board of Review, Caldwell Building, Tallahassee, Florida.*

Date: February 9, 1966

Board of Review, By J. D. Wright, Jr., Chairman.

Copies Mailed to:

Claimant

Employer (2 addresses)

Claimant's Attorney

Employer's Attorney

Union Local Office—Miami

FSES—Miami (14-0-13)

(Fla. BR-4) (Rev. 6/1/65)

[fol. 39]

NOTICE OF DECISION OF BOARD OF REVIEW

(See opposite) ☞

FLORIDA INDUSTRIAL COMMISSION

UNEMPLOYMENT COMPENSATION BOARD OF REVIEW
Tallahassee, Florida 32304

NOTICE OF DECISION OF BOARD OF REVIEW

Claimant:

Minnie E. Nash
3361 N. W. 67 Street
Miami, Florida

Social Security No. 409-24-6136

Decision No. 66-38

We enclose a copy of the decision of the Board of Review on this case

This decision will become final unless a proceeding for judicial review is initiated pursuant to Section 443.07(4)(e) of Chapter 443, Florida Statutes, 1957, known as the Florida Unemployment Compensation Law.

A proceeding for judicial review is initiated by filing in the District Court of Appeals a petition for writ of certiorari. Such petition must be filed in accordance with the rules of such court. These rules require that the same be filed within sixty days after the mailing date of this notice.

The Florida Industrial Commission and any other party to the proceeding before the Board of Review shall be made respondents to any such proceeding for judicial review.

Employer: No. -020817

Stanley Building Specialties
1890 N. E. 146 Street
North Miami, Florida

and:

The Stanley Works
195 Lake Street
New Britain, Connecticut 06052

February 22, 1966
Date of mailing this decision

BOARD OF REVIEW

J. D. Wright Jr.
Chairman

Other copies mailed to:
FSES - Miami (14-0-13)
Benefit Dept.
Claimant's Attorney
Employer's Attorney
Union Local Office - Miami
Field Deputy L. Liebman
General Counsel
Chief Field Deputy
Status Section

RECEIVED
FEB 28 1966
BENEFIT DEPARTMENT
Unemployment Compensation
Division

Form Fla. BR-8 (Rev. 5-59)

237

[fol. 40]

FLORIDA INDUSTRIAL COMMISSION
UNEMPLOYMENT COMPENSATION BOARD OF REVIEW
TALLAHASSEE, FLORIDA 32304

Board of Review Decision No. 66-38

Re: Referee's Decision Docket
No. 65-4494U

In the Matter of:

Social Security Account
No. 409-24-6136
Claimant-Appellant

Employer No. —020817

DECISION—Issued February 22, 1966

After due notice to the parties, this cause came on for final administrative disposition by the Board of Review at Tallahassee, Florida, on February 16, 1966, and was reviewed upon the record.

The decision of the Appeals Referee is affirmed.

Florida Unemployment Compensation Board of Review, J. D. Wright, Jr., Chairman, Walter L. Lightsey, Member, Frank M. Nelson, Jr., Member.

Date Mailed to the Parties: February 22, 1966

(Form Fla. BR-7)

[fol. 41]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

66-330

MINNIE E. NASH, Petitioner,

v.

FLORIDA INDUSTRIAL COMMISSION, THE STANLEY WORKS, and STANLEY BUILDING SPECIALTIES, Respondents.

PETITION FOR WRIT OF CERTIORARI—Filed April 20, 1966

To the District Court of Appeal, Third District:

The Petitioner, Minnie E. Nash, presents this, her petition for a Writ of Certiorari, to the Florida Industrial Commission, and states:

1. The Petitioner, Minnie E. Nash, Social Security No. 409-24-6136, seeks to have reviewed Decision No. 66-38 of the Unemployment Compensation Board of Review, Florida Industrial Commission, dated February 22, 1966, in which the Respondents, The Stanley Works and Stanley Building Specialties, appeared as Employers.

2. This petition is presented under and pursuant to Sec. 443.07(4)(c) and Sec. 443.07(4)(e), Florida Statutes.

3. The Petitioner was determined to be disqualified for all unemployment compensation benefits which she had previously received during 1965 in a redetermination rendered by a Claims Examiner on November 15, 1965, based upon the provisions of Sec. 443.06(4)(a)(b), Florida Statutes.

4. The said redetermination was affirmed in part and reversed in part by an Appeals Referee, upon a timely ap-

[File endorsement omitted]

[fol. 42] peal, and after a hearing held in Miami, Florida, in a decision dated January 14, 1966.

5. The Board of Review, upon a timely application by the Petitioner herein for review of the decision of the Appeals Referee, affirmed the Appeals Referee in the decision sought to be reviewed herein, dated February 22, 1966.

6. This petition is accompanied by a Motion to Require Preparation of Transcript of Record and for Extension of Time for Filing of Brief.

7. Because of the reasons to be fully set forth in the Brief of Petitioner, it is believed that the decision sought to be reviewed herein is erroneous and in conflict with the essential requirements of the Constitution of the United States, Privileges and Immunities Clause, Amendment XIV, Section 1, and Supremacy Clause, Article 6, Clause 2, and the laws of the State of Florida, on the grounds that:

> The determination that petitioner was disqualified for unemployment compensation benefits solely for the reason that petitioner had, subsequent to her unemployment, filed an unfair labor practice charge with the National Labor Relations Board, embodies a construction of F.S. §443.06(4)(a)(b) which renders said statute unconstitutional as applied to petitioner under the aforesaid provisions of the Constitution of the United States, and is further defective as an erroneous construction of said statute.

Wherefore, the Petitioner petitions the Court to grant a Writ of Certiorari and enter its order quashing the decision and order sought to be reviewed, awarding attorneys' [fol. 43] fees to the Petitioner, and granting such other and further relief as shall seem right and proper to the Court.

Respectfully submitted,

Rutledge and Milledge, Attorneys for Petitioner, 601 Flagler Federal Building, 111 Northeast First Street, Miami, Florida 33132, Richard L. Horn.

Certificate of Service (omitted in printing).

[fol. 44]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

66-330

MINNIE E. NASH, Petitioner,

—vs.—

FLORIDA INDUSTRIAL COMMISSION, and THE STANLEY WORKS, Respondents.

MOTION FOR ATTORNEYS' FEES—Filed April 20, 1966

Pursuant to Rule 3.16(e) the petitioner respectfully moves the Court to assess attorneys' fees for services herein in her favor, and against the respondent, Florida Industrial Commission, as provided by Florida Statute § 443.16(2)(b).

Respectfully submitted,

Rutledge & Milledge, Attorneys for Petitioner, 601 Flagler Federal Building, 111 N. E. 1st Street, Miami, Florida, Richard L. Horn.

Certificate of Service (omitted in printing).

[File endorsement omitted]

[fol. 45]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

66-330

[Title omitted]

[Handwritten notation—Grant—N. H.]

MOTION TO REQUIRE PREPARATION OF TRANSCRIPTS OF RECORD AND FOR EXTENSION OF TIME FOR FILING OF BRIEF OF PETITIONER—Filed April 20, 1966

The petitioner, Minnie E. Nash, respectfully moves the Court for an order requiring the Respondent Florida Industrial Commission to prepare and to provide the petitioner and the Court with an appropriate number of transcripts of the record of the proceedings in this cause, and shows in support of this motion as follows:

1. The petitioner is unable to accompany the petition for writ of certiorari herein with a certified transcript of record, since all of the record herein has been retained by the Florida Industrial Commission. The petitioner does not possess a transcript of the record; to her knowledge, none has been prepared. Only the respondent, Florida Industrial Commission, is able to prepare and provide transcripts.

2. It is believed that the Florida Industrial Commission is able, willing and prepared to provide the parties [fol. 46] and the Court with copies of the transcript of the record within twenty (20) days of the order requiring it to do so.

The petitioner, Minnie E. Nash, further respectfully moves the Court for an order granting her twenty (20)

[File endorsement omitted]

days from the service of the transcript by the Florida Industrial Commission upon her, to file the Brief of Petitioner, and shows in support of this motion, as follows:

1. The Brief of Petitioner cannot be properly prepared without a transcript of the record herein.

2. The petitioner does not possess such a transcript, for the reasons stated herein.

Wherefore, the petitioner respectfully moves the Court for an order requiring the respondent Florida Industrial Commission to prepare, file and serve transcripts of the record herein within twenty (20) days of the Court's order, and granting the petitioner twenty (20) days after the service of the transcript upon her within which to file the Brief of Petitioner.

Respectfully submitted,

Rutledge and Milledge, Attorneys for Petitioner, 601 Flagler Federal Building, 111 Northeast First Street, Miami, Florida 33132, Richard L. Horn.

Certificate of Service (omitted in printing).

[fol. 48]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

ORDER—April 20, 1966

Upon consideration of petitioner's motion to require preparation of transcript, it is ordered that the respondent Commission prepare and file the transcript of proceedings

in this cause in the usual manner, serving petitioner's counsel with a copy thereof and that the time for filing petitioner's brief is extended for a period of twenty (20) days from the date of filing of the transcript in this court.

cc: Rutledge & Milledge, Patrick H. Mears, Lawrence Kanzer, Fowler, White, Gillen, Humkey & Trenam.

/m

[fol. 49]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

PETITIONER'S REQUEST FOR ORAL ARGUMENT—
Filed May 24, 1966

The Petitioner herein respectfully requests oral argument in the above-styled cause.

Rutledge and Milledge, Attorneys for Petitioner, 601 Flagler Federal Building, 111 Northeast First Street, Miami, Florida 33132, Richard L. Horn.

[File endorsement omitted]

Certificate of Service (omitted in printing).

[fol. 50]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

FLORIDA INDUSTRIAL COMMISSION, RESPONDENT'S REQUEST FOR ORAL ARGUMENT—Filed June 8, 1966

Comes Now Respondent, Florida Industrial Commission, and through its undersigned attorney, respectfully requests that this Court grant it oral argument in this cause. Respondent also requests that if at all possible oral argument date be set on some day other than the period of July 5 through July 15, 1966, which is the vacation period for Respondent's undersigned attorney.

Respectfully submitted this 8th day of June, 1966.

Patrick H. Mears, Caldwell Building, Tallahassee, Florida and Lawrence Kanzer, Room 161, State Office Building, 1350 N. W. 12th Avenue, Miami, Florida, Attorneys for Respondent, Florida Industrial Commission, Lawrence Kanzer, of Counsel.

[File endorsement omitted]

Certificate of Service (omitted in printing).

[fol. 51]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

[Handwritten notations—Grant—N. H.—due 6/13—Cards mailed 6-10-66 JD]

STIPULATION RE FILING OF BRIEFS—June 9, 1966

Comes Now the Petitioner, Minnie E. Nash, and the Respondents, The Stanley Works and Stanley Building Specialties, by and through their undersigned attorneys, and stipulate that Respondents, The Stanley Works and Stanley Building Specialties, may have to and including June 24, 1966, in which to file their Brief and that Petitioner may have ten (10) days therefrom in which to file its Reply Brief.

Stipulated and agreed this 9th day of June, 1966.

Rutledge and Milledge, Attorneys for Petitioner, 601 Flagler Federal Building, 111 Northeast First Street, Miami, Florida 33132, By Richard L. Horn;

Florida Industrial Commission, Attorneys for Respondent, Room 161, State Office Building, 1350 Northwest 12th Avenue, Miami, Florida, By Lawrence Kanzer;

Fowler, White, Gillen, Humkey & Trenam, Attorneys for Respondent, 501 City National Bank Building, Miami, Florida 33130, By W. Reynolds Allen.

[File endorsement omitted]

[fol. 52]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

THE STANLEY WORKS AND STANLEY BUILDING SPECIALTIES, RESPONDENTS' REQUEST FOR ORAL ARGUMENT—Filed June 24, 1966

Come Now Respondents, The Stanley Works, and Stanley Building Specialties by and through their undersigned counsel, and respectfully requests this Court grant them oral argument in this cause.

Respectfully submitted this 24th day of June, 1966.

Fowler, White, Gillen, Humkey & Trenam, 501 City National Bank Building, Miami, Florida 33130,
By: W. Reynolds Allen.

[File endorsement omitted]

Certificate of Service (omitted in printing).

[fol. 53]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

ORDER—October 11, 1966

Counsel for petitioner having filed in this cause a motion for attorneys' fees, and same having been considered by the court which determined the cause, it is ordered that said motion is hereby denied.

cc: Rutledge & Milledge, Lawrence Kanzer, Patrick H. Mears, Fowler, White, Gillen, Humkey & Trenam.

/h

[fol. 54]

[Stamp—Not final until time expires to file rehearing petition and, if filed, disposed of.]

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT

Case No. 66-330

[Title omitted]

ORDER DENYING PETITION FOR WRIT OF CERTIORARI—October 11, 1966

This cause having heretofore been submitted to the court on petition for Writ of Certiorari upon the transcript of record and briefs to review the order of the Board of Review of the Florida Industrial Commission, Unemployment Compensation Division, in said cause, bearing date of

February 22, 1966, and the record having been considered, it is ordered that said petition be and the same is hereby denied.

Clerk District Court of Appeal, Third District.

cc: Rutledge & Milledge, Patrick H. Mears, Lawrence Kanzer, Fowler, White, Gillen, Humkey & Trenam, Mandate file.

/h

[fol. 55]

(Letterhead of District Court of Appeal, Third District, Miami, Florida 33136)

Oct 27, 1966

Rutledge & Milledge
Attorneys at Law
601 Flagler Federal Bldg.
Miami, Florida

Re: Nash vs. Fla. Industrial Comm.
Case No. 66-330

This is to advise you that the final order in the above styled cause was issued this date.

Very truly yours,

/s/ William P. Carter
Clerk District Court of
Appeal, Third District

cc: Patrick H. Mears; Lawrence Kanzer;
Fowler, White, Gillen, Humkey & Trenam

card to West

/h

[fol. 56] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 57]

SUPREME COURT OF THE UNITED STATES

No. .....—October Term, 1966

MINNIE E. NASH, Petitioner,

vs.

FLORIDA INDUSTRIAL COMMISSION, et al.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—January 10, 1967

Upon Consideration of the application of counsel for petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including February 8th, 1967.

Hugo L. Black, Associate Justice of the Supreme Court of the United States.

Dated this 10th day of January, 1967.

[fol. 58]

SUPREME COURT OF THE UNITED STATES

No. 1032—October Term, 1966

MINNIE E. NASH, Petitioner,

v.

FLORIDA INDUSTRIAL COMMISSION, et al.

ORDER ALLOWING CERTIORARI—April 10, 1967

The petition herein for a writ of certiorari to the District Court of Appeal of the State of Florida, Third District, is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.